

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION**  
**SHIMLA-171002**

In the matter of: -

Draft Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions of Service of Staff), Regulations, 2013.

CORAM  
Subhash Chander Negi  
Chairperson.

**ORDER**

1. In exercise of the powers conferred by clauses (zj) and (zk) of sub-section (2) of section 181, read with sub-sections (1), (2) and (3) of section 91 of the Electricity Act, 2003 (Act No.36 of 2003) and all other powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission, (hereinafter referred as “the Commission”) with the prior approval of the State Government, issued draft of the Himachal Pradesh Electricity Regulatory Commission (Staff) Regulations, 2013 to specify the terms and conditions of the service of the Officers and Employees of the Commission as required under section 181 (3) of the said Act. Prior publication process was followed whereby the draft regulations were published in the Rajpatra, Himachal Pradesh, on 16.01.2013. The regulations along with the explanatory memorandum and statements of objects and reasons were also posted on Commission’s website www.hperc.org. The Commission invited the objections and suggestions from the stakeholders by 15.02.2013 and in response thereof the Commission received comments and suggestions from the following:-

1. Sh.Raj Kumar, Record Keeper.
2. Sh.Kamal Diliak, Sr.Asstt.
3. Smt.Rama Mahajan, Sr.Asstt.
4. Sh.Sushil Kashyap, Supdt-Gr-II.
5. Sh.Satish Gharu, P.A.
6. Sh. B.S.Kanwar, P.A.
7. Sh.J.S. Raitka, Personnel-cum-Admn.Officer,
8. Sh.Ajay Chadha, Dy.Director.
9. Smt. Rinku Gautam, Dy.Director.
10. Common by the staff of the Commission.

2. Before considering these suggestions and objections, the Commission feels appropriate to highlight the legal provisions whereunder the Commission is mandated to frame the regulations, objects and reasons and background of steps initiated and final stage that it has reached.

3. Section 91 of the Act has following provisions, relevant to the present context,-

“91. Secretary, officers and other employees of Appropriate Commission.-

- (1) The Appropriate Commission may appoint a Secretary to exercise such powers and perform such duties as may be specified.
- (2) The Appropriate Commission may, with the approval of the Appropriate Government, specify the numbers, nature and categories of other officers and employees.

(3) The salaries and allowances payable to, and other terms and conditions of service of, the Secretary, officers and other employees shall be such as may be specified with the approval of the Appropriate Government.”

4. Section 181 of the Act confers the power upon the State Commission to make the regulations as under:-

“181 (1) The State Commission may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely:-

xxx    xxxxxx   xxxxxx   xxxxxx   xxxxx    xxxxx    xxxxx    xxxxxx   xxxxx  
xxx    xxxxxx   xxxxxx   xxxxxx   xxxxx    xxxxx    xxxxx    xxxxxx   xxxxx

(zj) the powers and duties of the Secretary of the State Commission under sub-section (1) of section 91;

(jk) the terms and conditions of service of the secretary, officers and other employees of the State Commission under sub-section (2) of section 91;

xxx    xxx    xxx    xxx    xxx    xxx    xxx    xxx    xxx

(3) All regulations made by the State Commission under this Act shall be subject to the condition of previous publication.”

5. These provisions imply that in addition to general powers as contained in sub-section (1) of section 181, the Commission can make regulations under clauses (zj) and (zk) of section 181 (2) in accordance with the sub-sections (1) and (2) of section 91 of the Act.

6. From the above it is crystal clear that the Commission may appoint Secretary. As regards officers and other employees, the number, nature and categories of such officers/employees and salary, allowance and other service conditions of the Secretary, officers and employees are to be specified by the Commission, with the prior approval of the State Govt.

7. In the State Govt., the Departments, the Govt. provides for terms and conditions of its officers/employees through rules, which are normally called Recruitment and Promotions Rules, under Article 309 of the Constitution. However, in State Commission, after approval of the State Govt., responsibilities/duties of specifying, by framing regulations, such terms and conditions of service is cast upon the State Commission. Sub-section (3) of section 181 of the Act also requires previous publication of the regulations to be framed by the Commission under the Act. That process involves the invitation of objections and suggestions from the affected persons and consideration of those objections/suggestions so received before the finalization of the draft regulations. Therefore, the terms of creation of posts, salary structure, allowances payable and terms and conditions of general nature require prior approval of the State Govt. and the Commission is empowered to formulate regulations, inter alia, to give effect to such

specific and general approvals by framing appropriate regulations keeping in view the fundamental principles of recruitment and promotions within the over all principle as is applicable to the employees of the State Government.

8. The Commission was constituted on December 30,2000 and various posts were created by the State Govt. from time to time. The Commission prepared and notified the draft regulations specifying terms and conditions of services of its officers and employees in Rajpatra on 16.09.2004. However, in the absence of approval of the State Govt. as envisaged under section 91 of the Act, the draft regulations could not be finalised. The Commission had been taking up the matter with the Department of MPP & Power in the State Govt. for approval of the terms and conditions of the services of the officers and employees from time to time.

9. The matter remained under protracted correspondence between State Govt. and State Commission for all these years without arriving at any finality. Therefore, a formal meeting was held between the Chairman HPERC and the Addl. Chief Secretary (MPP & Power) to the Govt. of HP on 11.07.2012 and based on the decisions arrived at, the revised proposal, in supersession of all the previous proposals, was sent by the Commission to the State Government through the Addl. Chief Secretary (MPP & Power) to the Govt. of HP vide letter No. HPERC/Secy/RPB/705/CV/KD/2011-2221 dated 12.07.2012, followed by a reminder to the Special Secretary (MPP& Power) to the Govt. vide letter No.HPERC-B(3)-1/2011-2638 dated 23.08.2012. The Addl. Chief Secretary (MPP & Power) conveyed approval of the State Govt. on the final proposal dated 12.07.2012 of the Commission vide letter No. MPP-A(3)-1/2003-loose dated 04.09.2012.

10. The salient features of the approval accorded by the State Govt. dated 12.07.2012 under section 91(2) and 91(3) read with section 181 of the Act are as under:-

- (a) The sanctions of posts by State Govt. of the Secretary, other officers and employees from time to time, totalling 46, have been reiterated under this approval.
- (b) The sanctioned posts of the Secretary, other officers and employees of the Commission shall be filled up by the Commission on secondment basis or on re-employment basis.
- (c) The Commission was authorised by the State Government to make appropriate provisions for promotions for the regular employees with the condition that while making such provision qualifications, experience etc. shall not be less than those prescribed for similar non-technical categories of the posts in the State Govt. departments and technical categories of posts in the HPSEBL.
- (d) While normal mode of appointment/recruitment will be on secondment or on re-employment basis or by promotion, in exceptional situations where the posts is required to be filled up either by way of absorption of officers/employees of the departments/boards/ corporations or by direct recruitment, Commission may do so with the approval of the Govt.
- (e) The Commission is authorised to decide educational qualifications, experience and other conditions for appointment to the posts of the Commission keeping in view its specific requirement, with further delegation to the Commission to relax educational qualifications and experience if no candidate fulfils the eligibility conditions to fill up the posts on secondment basis.
- (f) The State Govt. has authorised the Commission to fill up the posts on secondment basis by an incumbent at a level different from such sanctioned posts if suitable candidates is not available to fill up that vacant post subject to the condition that it

is within the overall sanctioned strength of the posts in the respective categories, so as to facilitate functioning of the Commission.

- (g) The State Govt. authorised the Commission to outsource certain services those are required to be performed by outsourcing.
- (h) The State Govt. authorised the Commission to fill up the posts as deemed approval once approval of posts has already been accorded.

11. As a sequel to the State Govt. approval, the Commission prepared draft regulations based on such approvals of terms and conditions, delegations made to the Commission by the State Govt. and also the general principles of rule of law for recruitment and promotions etc. The draft regulations were formulated keeping in view the statement of objects and reasons reflected in the explanatory memorandum. The objects and reasons for various provisions under the regulations, apart from the specific approvals of the Govt. as stated in the Explanatory Memorandum are reproduced as under:-

“The Commission is mandated to perform the regulatory, legislative, adjudicatory, promotional and advisory functions under the Electricity Act, 2003 and, therefore, it requires the services of technical experts having professional and practical expertise/experience in electrical systems, specialised expertise in power control and regulations, commercial and power markets, finance and accounts under the Company Law framework, regulatory, court and legislative matters etc. the Commission has to have an efficient and cost effective establishment focussing purely on its core functions and, therefore, a small organisation like HPERC cannot afford to have a huge in house establishment having all such expertise. Moreover, technological, commercial and market development in the power sector is advancing with rapid pace and hence such expertise can best be drawn from pool of talents available with various organisations of the Central and State Governments from time to time on tenure basis i.e. on secondment. Such an arrangement will also facilitate the Commission in focussing its priorities on its core functions rather than doing the additional work of establishment matter like promotions, pension related matters that the regular establishment entail and demand. Accordingly, the aims and objectives of these regulations are to maintain a lean establishment that is cost effective, efficient, and dynamic with full capacity to meet the emerging needs of the electricity regulation.

Therefore, Commission shall have its staff i.e. Secretary, Officers and other Employees, on secondment basis from Central/State Government Departments, Undertakings, Boards, Local Bodies etc. Commission’s functions are largely different from the normal functions of the Government Departments/Undertakings and even the power sector utilities. The Commission may not always find suitable persons on secondment as per its requirement or the Commission may like to utilise the services of the expert person even after his retirement. In such situation the Commission may appoint retired persons on contract basis as per terms prescribed by the State Government for re-employment but subject to age limit of 65 years. The Commission may also require outsourcing of certain functions which are either not included in the scope of sanctioned posts or are inadequate within the sanctioned scope also, keeping in view its emerging requirements, efficiency, cost effectiveness etc. However, at the same time the Commission also requires certain minimum staff on regular basis to facilitate continuity in routine functioning, particularly in the ministerial and secretarial level. Having regular staff, which the Commission already has some by way of absorption of the deputationists, will entail creation of promotion avenues because the incumbent staff will have

expectations for promotions, notwithstanding the aims and objects of the creation of establishment. Therefore, the Commission will have promotional avenues for certain categories up to certain levels so that these measures do not impact adversely the technical and the professional competence and capacities for discharge of its core functions.

The Commission may face problems of appointing persons on secondment, due to lack of any incentive and, therefore, for its smooth functioning, the Commission should be able to appoint persons on regular basis either by direct recruitment or by absorption of persons from other Departments/Undertaking particularly to the entry level posts. The Commission has a small strength of sanctioned staff and therefore it may be required that each level or category of posts/incumbents has to perform multi tasks. Also, the nature of job of the Commission is highly technical and different than the normal functions of other offices, therefore, requiring higher qualifications and also capacities to acquire new knowledge. Hence minimum educational qualifications in Ministerial (clerical) and secretarial (personal/stenography staff) needs to be graduation.

While substantive terms and conditions require approval of the State Government, certain operational flexibility within general approval is desirable to be permitted to the Commission. Therefore, the regulations also aim at delegation of certain powers, which have duly been accorded by the State Government in its approval.”

12. Based on the legal framework and specific requirement of the Commission as a specialised institution and with skeleton staff as discussed above, the Commission has to consider the suggestions and objections in relation to the draft regulations received from various quarters.

13. Sh.Raj Kumar, Sh.Kamal Dilaik, Sh.Sushil Kashyap and Mrs. Rama Mahajan, have suggested that:-

- (a) the mode of filling up of the posts of Personnel-cum-Administrative Officer, Reader and Superintendent should be purely by promotion and provision of secondment should not be made.

Commission's Views:-

The aims and objectives of the proposed Regulation No.4 is to provide some avenues of promotion to the existing regular employees and, therefore, if existing employees meet the eligibility criteria for promotion as proposed in Part-II of Schedule –II and if post is available to be filled up, such post will ordinarily be filled up by way of promotion subject to selection/fitness as the case may be. Therefore, the Commission will make suitable provision to clarify the provisions with respect to promotion to the posts in Schedule-II. However, the service regulations have to provide for alternate mode of appointments because rules and regulations are general in nature and not specific to individual incumbent or individual situation. Therefore, general provision of filling up the post on secondment and re-employment basis shall also remain.

- (b) The Law Officer should not be feeder category for promotion to next higher posts because post of Law officer has been proposed to be filled up on secondment basis.

#### Commission's Views:-

The Commission agrees with the suggestion and appropriate provision will be made in the final regulations. However, as and when there is a Law Officer on regular basis in the Commission, it shall be kept as a feeder category for promotion to the post of the Reader at par with the Superintendent and also for the post of the Personnel-cum-Admn. Officer at par with the Superintendent for combined services of the Superintendent and Reader.

14. Sh.Kashyap has suggested that there should be clear provision for statutory eligibility of gratuity, leave encashment, medical reimbursement after retirement. The payment of Contributory Pension Scheme also needs to be specified.

#### Commission's Views:-

The Commission agrees that the provision should be made for gratuity, leave encashment and medical reimbursement etc. The State Government in its approval has also provided general provision that the conditions those are applicable to the State Govt. Department employees shall also be applicable to the Commission. Therefore, appropriate clarity shall be brought out under regulations. The Contributory Pension Scheme is a detailed scheme of the State Govt. and details are specified therein and are applicable ipso facto to employees of the Commissions and therefore, provision made in the draft regulations are adequate.

15. Sh.Satish Gharu, Sh.B.S.Kanwar and others have suggested that under the regulation 5 (1) the proviso has been incorporated that in case of appointment on secondment, the Commission may relax the educational qualification and experience, if no candidate fulfils the eligibility conditions keeping in view the needs of the Commission. Such provision should also be made for posts to be filled up by promotion.

#### Commission's Views:-

The Commission clarifies the objective behind the proviso. The State Govt. has given specific approval of terms and conditions, and also authorised the Commission to make regulations by specifying qualifications and experience for appointment on secondment basis as it deems fit. Since the Commission has been authorised to specify these terms and conditions, the State Govt. has also authorised the Commission to relax the regulations, but only to this extent. The intention of the State Govt. is to facilitate the Commission to engage persons to meet its requirement even if the candidate with eligibility conditions as specified in the regulations are not available. This provision does not entitle or authorise the Commission to change the terms and conditions of the appointment of the person in his parent cadre/department but it authorises only for relaxation of qualifications in regulations to fill up the post by such incumbent in the Commission and such persons will continue to carry terms and conditions that he is entitled to in his parent department/organisation. The suggestion given by Mr.Gharu and Mr. Kanwar amounts to relaxation of terms and conditions for filling up the post by promotion and this power requires the prior approval of the State Govt. if such relaxation is in departure of general terms and conditions approved by the State Govt. i.e. essential qualifications and experience shall not be less than those prescribed for same categories in Govt./HPSEBL, because such powers has not been delegated to the Commission.

Therefore, this will come under provision of regulation 12 i.e. power to relax with the approval of the State Govt.

16. Sh.B.S.Kanwar, has suggested that under Regulation 4 (4) the provisions for re-employment of the retired persons of HPERC should also be made along with others.

Commission's View:-

The Commission agrees with the suggestion and accordingly necessary change shall be incorporated.

17. Sh. Satish Gharu and B.S.Kanwar have suggested that the post of Sr. Private Secretary should be filled up by promotion from incumbent holding post of PA/PS with 8 years services including one year as P.S. or by promotion from PA with 6 years of service.

OR

On the basis of combined services of 9 years of PA/Sr.Scale Stenographer on the analogy of provision made for the posts of the Reader and the Personnel-cum-Admn. Officer. They also suggest that the pay scale of the posts of Private Secretary may be specified to be utilised against the post of Sr. Private Secretary.

Commission's View:-

The crux of the objection raised by both the employees is to provide for promotional avenues and since the post of Sr. Private Secretary exists, there should be either direct promotion from P.A. to Sr. Private Secretary or it can be at two stages i.e. first stage as Private Secretary and then as Sr. Private Secretary. These objections and suggestions are required to be considered within the approval accorded by the State Govt. for providing promotion avenues to the regular employees of the Commission and also in conformity with the objects and reasons elaborated in the explanatory memorandum to the draft regulations. The approval of the State Govt. for filling up of certain posts by promotion contained the conditions that the Commission may make appropriate provision for promotions for the existing employees appointed on regular basis and while making such provisions essential qualifications, experience etc. shall not be less than those prescribed for similar non-technical categories of the post in the State Govt. Departments and technical categories of posts in HPSEBL.

From the provisions as contained in the approval of the State Govt. and the objects and reasons of the regulations, it is clear that certain minimum level of promotional avenue shall be provided for regular employees of the Commission but the posts to be filled by promotion should be such that it does not adversely affect the functioning of the Commission. At the same time in order to ensure that eligibility criterion are reasonable and just, the State Govt. has put some conditions that these should not be lesser than those laid down for employees in the State Govt. and the HPSEBL.

The post of Sr. Private Secretary was created for posting with the Chairman. It is a very senior level post in terms of rank, pay and experience and hence expected and meant to be filled up on secondment. It was nowhere the intention to create this post to give promotion avenues to any level prevailing in the Commission. The post of Sr. Private Secretary is in the pay scale of Rs. 10025-15100 and the Personal Asstt. is in the pay scale of Rs. 6400-10640, the corresponding new scales are Rs. 15600-39100+6600 GP. and

10300-34800+4800 G.P. respectively. In between these two scales there are number of other scales and in the Commission itself i.e. posts having scales of Rs.7220-11660 and 7880-11660. Therefore, while the employees in this cadre deserve next promotion but it need not be granted by jumping three levels above the scale of P.A. without requisite experience. In the ministerial cadre there is no post for promotion equivalent to the Sr. Private Secretary which is the scale equivalent to the Dy. Director in the Commission, but have posts higher than the post of the Superintendent in the grade of the Reader Rs.7220-11660 and in the grade of Personnel-cum-Administrative Officer Rs.7880-11660. Therefore, on the analogy of ministerial cadre and the general hierarchy in the cadre in the State Govt. Department, the post of Sr. Private Secretary may be utilised in the rank of Private Secretary as approved in the various departments of the State Govt. i.e in the pay scale of Rs.15600-39100+5400GP.

The analogy of promotion to the post of Reader and Personnel-cum-Administrative Officer drawn while suggesting direct promotion from PA to Sr.PS with combined service of PA and Sr.Scale Stenographer is factually incorrect. For promotion to Reader the person should be in the post of feeder category i.e. Superintendent with combined service of Supdt. and Sr.Asstt. If this analogy is drawn, a person has to be in the grade of PS for promotion to Sr.P.S. and not directly from the post of PA.

The provision regarding further promotion from PS to Sr.Private Secretary by reviving the post in the grade of Sr.P.S. may be considered, in accordance with the principle laid down in the State Govt. approval, in future as and when such occasion and need arises. However, enabling provision to this effect will be made in the regulations.

18. Most of the regular employees of the Commission have made common suggestion that:-

1. HPERC should be given "A" Grade office status.
2. Provisions such as Leave Encashment, Gratuity and Ex-gratia, GIS, HBA, Medical Reimbursement after retirement etc. be specifically mentioned in these Regulations.
3. The Govt. Pension Scheme should be made applicable to the employees of the Commission.
4. Allow facilities like Electricity, Transportation, Uniforms, Newspapers etc. to the employees of the Commission on the pattern of technical categories in the HPSEBL .
5. Build up permanent cadre in the Commission instead of appointment on secondment.
6. EPF contribution/amount and other retirement benefit may be deposited by opening individual account of employees governed under the "Fund" of the Commission.

Commission's Views:-

The communication received by the Commission from the State Govt. vide letter NO.MPP-B(10-3/2007 dated 4<sup>th</sup> June, 2008 and letter No.Fin (Pen)A(3)-5/2006 dated 30<sup>th</sup> September, 2008 clarifying that though the employees of the Commission are drawing

their salary from the “Fund” established by the State Govt., yet they are the employees of the HP State Government and further that all appointments made on or after 15.03.2003 have been excluded from the purview of CCS (Pension) Rules 1972 and shall be governed by HP Civil Services Contributory Pension Rules, 2006. The Commission is bound by the terms and conditions of the services approved by the State Govt. Regarding “A Grade” status to the office of the Commission, the service conditions including pay and allowance of “A Grade” offices are different from other offices of the State Govt. and the pay band and grade pay etc. approved by the State Govt. for officers and employees of the Commission are at par with other offices of the State Govt.. Therefore, Commission cannot make any departure. These and other matters of general nature can be considered to be dealt with separately by the Commission to be taken up with the State Govt.

The Commission agrees that although general provision has already been made in the draft regulations, yet specific provision regarding leave encashment, gratuity and ex-gratia, GIS, HBA, medical reimbursement after retirement etc. should be mentioned in the regulations.

19. Sh. J.S. Raitka, apart from certain issues already covered above, has suggested changes in the language of text of the draft, which shall be incorporated where-ever relevant. He has raised issues which are in the nature of personal grievances and also for making provision for promotion from Personnel-cum-Admn. Officer to the post of Dy. Director (Legal) or Dy. Director (Consumer Affairs).

Commission’s Views:-

Regarding his personal grievances, the records available in the Commission reveal that his terms and conditions of appointment was subject to approval of the State Govt. and, therefore, the terms so approved by the State Govt. shall be applicable to him. The redressal of grievances is separate channel available to him. Regarding filling up the posts of Dy. Director (CA) or Dy. Director (Legal) from ministerial category i.e. Reader and Personnel-cum-Admn. Officer, the Commission feels that incumbent to these posts are required to be subject matter specialist and, therefore, incumbent can be best sourced on secondment basis. However, the Commission also notices that in the ministerial category promotion avenue available is only up to the Personnel/Administrative Officer where as in secretarial category it is up to the Sr. Private Secretary level, which is equivalent to Deputy Director in terms of pay. Hence, there is ground and merit to provide for promotion to Deputy Director (Consumer Affairs), which is a specialised job, for the Personnel-cum-Admn. Officer with 3 years service, if requisite qualifications are met.

20. Ms. Rinku Gauttam, Dy. Director, presently on deputation with DERC and Sh. Ajay Chadha, Dy. Director have made suggestion regarding promotions to the next higher posts, in their individual context, as under:-

Ms. Rinku Gauttam has suggested that she has already been absorbed against the post of Dy. Director but in a scale of Rs.12500-19100 (HPSEB pay scale) which is higher than the Govt. scale, approved by the State Govt. for Dy. Director and is equivalent or even higher than the scale of proposed post of Joint Director to be utilised against higher post of Director to provide for promotion avenue to the Dy. Directors. Therefore, the person who is already in the pay scale of the promotional post in the feeder category of posts itself, requires to be given benefit of pay/pay scale pursuant to promotion. Promotion avenues for Dy. Director to both the posts of the Director should be made

instead of against only one post. Similarly, promotion avenues from the Director to the Executive Director should also be provided.

Sh.Ajay Chadha has also suggested for creation of promotional avenues with specific reference to his individual case and in addition to the suggestion made by Ms.Gauttam, Mr. Chadha has suggested that there should be separate engineering cadre at the Dy. Director and Director levels and they should be provided Assured Career Progression Scheme on the lines of engineering cadre of the State Govt. and also that engineering cadre should be made separate category for the purpose of earmarked promotion.

#### Commission's Views:-

Functions to be discharged by the Commission require multi-disciplinary experts within the overall strength of a small group of officers at three levels i.e. Dy. Director, Director and Executive Director. The Commission acknowledges that there are competing claims to the organisation design and its objective i.e while on the one hand regular incumbents would like opportunities of career progression as an important objective of the organisation, whereas the functional mandate of the Commission would require its core objective to have the best of the multi-disciplinary experts from which-ever source they are available. Therefore, at the senior experts levels, the Commission and the State Govt. intend officers to be drawn on secondment basis. However, at the office staff level i.e. ministerial and secretarial category certain portion of permanent staff is also desirable and necessary. At the initial stage of its constitution, the Commission absorbed all the staff, whosoever opted for absorption, most of whom are from ministerial/secretarial category. However, at experts level, two officers have been absorbed at the level of the Dy. Director. The intention of the Commission and the State Govt. is to provide certain reasonable avenues of promotion to the regular incumbents and while doing so it should be ensured that, on the one hand, filling up of post by promotion does not adversely affect the effective working of the Commission and also minimum eligibility criterion is at least at par with the similar non-technical category in the State Govt. departments and technical categories in the HPSEBL. The Commission appreciates the concern of these two officers and even of all other regular officials regarding need for promotion avenues, because it is a universal concern of employees in every organisation. While in some of the organisations, there may be more than adequate opportunities and in some there may be very few or none. Some mechanism of the Assured Career Progression Scheme by way of time bound financial incentive, is already in place in the State Govt., that becomes automatically applicable to the employees of the Commission also.

Absorption of a person in higher scale against lower scale post is an incentive as a measure personal to such person. Therefore, issue as to whether Ms. Gauttam, already absorbed in the scale of proposed post of Joint Director, can be promoted against the same scale by giving promotional benefit needs to be examined separately. The Commission does not agree that both posts of the Directors should be filled up by promotion because the post of the Director being senior level, need to carry technical experience in power sector, mainly in power supply and also technical qualification of electricity distribution. Hence one post is considered, that too to purely for providing avenues for promotion to the incumbents, even though functionally both the posts should better be filled up on secondment. The Commission has presently two Dy. Directors on regular basis, one appointed in 2005 and another in 2010. The arrangement for utilising one of the posts of Director for promotion is being done from the objective of providing promotion avenue to these two officers so as to retain them in the Commission for continuity and to benefit from

their expertise acquired while working in the Commission. Presently, there is no incumbent to the post of the Joint Director and hence it is premature to consider the issue of promotion from Joint Director to Director. The State Govt. has delegated powers to the Commission to identify the posts to be filled by promotion and prescribe the eligibility criterion for such posts. The Commission, therefore, shall review the regulations from time to time as per the requirement. However, enabling provision to this extent will be made in the regulations.

Regarding length of service for promotion to Joint Director, which is equivalent in scale to the post of Executive Engineer, it takes about 15 years for an A.E to become XEN and about 25 years for becoming Superintending Engineer (equivalent to Director) even though eligibility service under Rules are less. Hence Commission feels that 6 years service as Deputy Director for the post of Joint Director and 8 years service as Joint Director for the post of Director is reasonable and just and also meets the condition laid down by the State Govt. while delegating powers to the Commission in its approval.

In so far as suggestion of Mr.Chadha for promotion avenues personal to him, the Commission is of the view that by having qualification of Engineering of an incumbent to a post does not make that post or cadre as engineering cadre. The officers in the Commission are required to be manned by multi-disciplinary experts and therefore, it cannot discriminate among officers in the same cadre of Dy. Directors. The matter of 4 - Tier Assured Career Progression Scheme is within the domain of State Govt. as to whether it should be granted to the Dy. Director in the Commission and this matter needs to be examined separately as a grievance of an individual officer by the Commission and policy in general.

21. It is suggested by a few officers that the post of Secretary should be filled up by promotion from the Personnel-cum-Administrative Officer and technical cadre of the Commission. The Commission is of the view that, keeping in view the role and duties of the Secretary, the Secretary of the Commission should be either a member of the All India Service or a senior member of the HP Administrative Service. However, there may be situations when the Govt. is unable to provide the services of such Service officers. Therefore, provision for appointment of Secretary by the Commission from amongst its offices shall be appropriately made in the regulations.

Based on these observations, the draft regulations shall be finalised and notified.  
Commission orders accordingly.

Sd/-  
(Subhash C.Negi)  
Chairman.

Shimla.

Dated: the 16<sup>th</sup> April,2013.